

### **REMARKS**

Claims 1-3, 6, 15, 21, 24, 38, 43 and 44 are pending in the above-identified application. Claims 1-3, 6, 15, 21, 24, 38, 43 and 44 are subject to restriction requirement. Upon entry of this response, claims 1, 43, and 44 are amended, and claims 52-64 are added. Accordingly, claims 1-3, 6, 15, 21, 24, 38, and 43-64 are presented for further examination.

Each of the independent claims 1, 43, and 44 has been amended to specify that the product comprises, in addition to inulin, at least one low molecular sugar and at least one secondary metabolite. These amendments are supported by the original disclosure in the application and preliminary amendments as filed. The modifications address the issue raised by the Examiner in view of the reference by Rideout et al. (cited no. 76 in the IDS filed on 31 August 2006), which teaches a chicory product comprising inulin. Rideout et al. do not describe a processed chicory product comprising inulin, at least one low molecular sugar and at least one secondary metabolite. Thus, these groups of inventions fulfill the requirements of PCT Rule 13.2 that there is a technical relationship among the inventions involving one or more of the same special technical features and that these special technical features are the features that define a contribution which each of the inventions makes over the prior art.

Support for new product claims 52-64 can be found at least in the claims previously filed in the National Stage Application (WO 2004/084644; Application 10/561,363), which disclose a chicory root product comprising components of the product to which the newly added claims 52-64 are directed. For example, the new claim 56 is supported by claim 71 in the aforementioned application, and the new claims 58-64 are supported by claim 72 in the aforementioned application.

### **Restriction/Election Requirement**

In the Restriction Requirement mailed April 10, 2010, the Examiner required restriction to one of the following groups of claims:

Group I - Claims 1-3, 6, 15, 21, 24, and 38, drawn to a method of reducing taint, skatole content, androstenone content, malodor, or the amount of infections in the GI tract comprising

feeding the animal a processed chicory product comprising inulin and at least one compound selected from the group consisting of a low molecular weight sugar and a secondary metabolite.

Group II – Claim 43, drawn to a method for preparing a processed chicory food product comprising inulin and at least one compound selected from the group consisting of a low molecular weight sugar and a secondary metabolite.

Group III - Claim 44, drawn to a processed chicory product comprising components from chicory roots, where said components comprise at least inulin and at least one compound selected from the group consisting of a low molecular weight sugar and a secondary metabolite.

In response to the Examiner's restriction requirement, Applicants elect to prosecute the claims of Group III, Claim 44, drawn to a processed chicory product comprising components from chicory roots, where said components comprise at least inulin and at least one compound selected from the group consisting of a low molecular weight sugar and a secondary metabolite. This election is made with traverse. Applicant submits that new claims 52-64 are properly grouped with Group III and are hereby elected.

The Examiner states that the common technical feature in all groups is a chicory product comprising inulin, which is not fully correct. The common technical feature in all the groups is a chicory product comprising inulin and at least one low molecular sugar and at least one secondary metabolite. As disclosed in the specification (example 2B, page 54-57), inulin alone is not satisfactory to obtain the effect with the animals fed with the product.

Groups III and I and II are related as product and process of making or using the product. Where Applicants elect claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim are eligible for rejoinder. *See* M.P.E.P. § 821.04. Applicants specifically reserve the right to rejoin, on allowance of an elected product claim, non-elected claims to a process of use or manufacture that satisfy the provisions of M.P.E.P. § 821.04.

Applicants reserve the right to prosecute the claims of the non-elected groups in one or more divisional applications pursuant to 35 U.S.C. § 121. Furthermore, Applicants reserve the right to rejoin, as appropriate, the claims of any non-elected groups in accordance with M.P.E.P. § 809.

Conclusion

Applicants submit that the present Application is in condition for substantive examination and respectfully request the same. If any issues remain, the Examiner is cordially invited to contact Applicants' representative at the number provided below in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 04-0258.

Respectfully submitted,

Dated: 03 MAY 2010 By: C. Philip Poirier  
C. Philip Poirier  
Registration No. 43,006  
Attorney of Record  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, California 94111-3611  
(415) 276-6500